

POLICY STATEMENT NO. 2010-04

SUBJECT: Protest Policy

DATE: November 18, 2010

P O L I C Y S T A T E M E N T

SUBJECT: Procedures for Protest of Selections and Contract Awards for Professional Services and Construction Services for Capital Improvement Projects
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WHEREAS, Arizona Revised Statutes Section 34-603 requires that the Town of Gilbert formally adopt a protest policy for certain public works projects; and

WHEREAS, the Town Council desires to formally adopt a protest policy that sets forth procedures submittal and processing protests of selections and contract awards for professional services and construction services for capital improvement projects.

NOW, THEREFORE, the following policy is hereby established:

I. Protest of Selections and Contract Awards

- A. An unsuccessful proposer or bidder ("Protester") in a solicitation for professional services or construction services in a capital improvement project may protest a selection or contract award in accordance with this policy.
- B. The Protester shall file the protest in writing ("Protest") with the Town Engineer within 72 hours after Gilbert issues its Notice of Apparent Low Bidder or its Notice of Recommended Selection and shall include the following information:
 - 1. The name, address and telephone number of the Protester;
 - 2. The signature of the Protester or its authorized representative, which authorization shall be included in the protest;
 - 3. Capital Improvement Project Number and Contract Number;
 - 4. A detailed statement of the legal and factual grounds of the Protest, including copies of relevant documents.

II. Town Engineer evaluation of protest.

- A. The Town Engineer shall evaluate all Protests and shall issue a written recommendation to the Gilbert Town Council ("Recommendation") within 72 hours after a Protest has been filed. The Recommendation shall contain the basis for the Recommendation and a statement that the Recommendation may be appealed to the Assistant Town Manager for Development Services within 72 hours from receipt by the Protester of the Recommendation.

- B. If the Town Engineer upholds the Protest, the apparent low bidder as set forth in the Notice of Apparent Low Bidder or the selected firm as set forth in the Notice of Recommended Selection (both referred to as the "Selected Party") may appeal the Recommendation pursuant to Section III below.
- C. If the Town Engineer denies the Protest the Protester may appeal the Recommendation pursuant to Section III below.
- D. If the Town Engineer fails to issue a Recommendation within 72 hours, the Protester may proceed as if the Town Engineer had denied the Protest.

III. Appeals of the Recommendation of Town Engineer

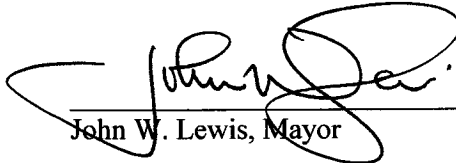
- A. A Protester or Selected Party may appeal the Recommendation to the Assistant Town Manager for Development Services within 72 hours after the date the Recommendation is received.
- B. The appeal shall be in writing and shall include the following Information:
 - 1. The information prescribed in Section I(B) above;
 - 2. A copy of the Recommendation; and
 - 3. The precise factual or legal error in the Recommendation from which an appeal is made.

IV. Evaluation of Appeal by Assistant Town Manager

- A. The Assistant Town Manager shall evaluate the appeal and shall render a final recommendation ("Appeal Recommendation").
- B. The Assistant Town Manager shall notify the Protester and the Selected Party in writing of the Appeal Recommendation and the date of the meeting at which the Gilbert Town Council will make the final vote on award of the contract.

V. Selection and Contract Award

The Gilbert Town Council shall make the final decision on the contract award at a public meeting.



John W. Lewis, Mayor

ATTEST:



Catherine A. Templeton, Town Clerk